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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/044,448	Applicant(s) HO ET AL.
	Examiner Igor N. Borissov	Art Unit 3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 March 2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,6-12,17-23,26,27,30-33 and 76-82 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,6-12,17-23,26,27,30-33 and 76-82 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Response to Amendment

Amendment received on 04/22/2008 is acknowledged and entered. Claims 2-5, 13-16, 24, 25, 28-29, and 34-75 have been canceled. Claims 1, 6, 12, 17, 23, 27 and 30 have been amended. New claims 76-82 have been added. Claims 1, 6-12, 17-23, 26, 27, 30-33 and 76-8 are currently pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6-10, 27, 30-33, 76-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sofer et al. (US 6,920,487) in view of Wang et al. (US 5,365,520) and further in view of Larsson (US 6,304,757) and further in view of Pines et al. (US 6,970,548 B2).

Independent Claims

Claims 1 and 76.

Sofer et al. (Sofer) teaches a computer-implemented method and system for maintaining and distributing wireless applications to mobile devices, comprising:

receiving a call for a service from a mobile device (said call including a service dialed number (short code)) (C. 3, L. 35-37);
determining, from the call, a subscriber identifier (C. 7, L. 65 - C. 8, L. 1);
selecting a response to the call based upon a service dialed number (short code) selected to address the call, said service dialed number (short code) including information representing a unique code for routing the call and, therefore, identifying a corresponding gateway (server) (translating short code information into routing

instructions) (C. 3, L. 47-49; C. 4, L. 23-27); and information uniquely identifying the service based on the selected response and the determined subscriber identifier (said short codes representing specific services) (C. 6, L. 12-28; C. 7, L. 35-40);

initiating a dialog between a server and the mobile device (establishing an interactive voice response for additional input from said mobile device) (C. 6, L. 40-42; C. 7, L. 7-18).

Sofer does not explicitly teach that

said service dialed number (short code) which identifies correct routing path and corresponding gateway (server) includes at least a first segment and a second segment;

terminating the call prior to an answering of the call, and that said initiating step is conducted after said termination of the call; and

determining, based upon the subscriber identifier, a set of capabilities of the mobile device; selecting, based upon the set of capabilities, a two-way dialog format, through which the mobile device is capable of communicating; and that said "initiating a dialog" step is based upon the selected two-way dialog format.

Wang et al. (Wang) teaches a method and system for dynamically routing a dialed signal, said signal including at least a first segment and a second segment (routing short code), said method including routing the signal in accordance with information obtained from said first and second segments (Figs. 3 and 8; C. 6, L. 65 - C. 7, L. 5; C. 12, L. 36-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sorer to include that said service dialed number (short code) includes at least a first segment and a second segment, as disclosed in Wang, because it would advantageously allow to provide a mobile operator with sufficient intelligence to enable to route the call to a particular destination via appropriate nodes without having the participants of the call being aware of the specifics of the routing path, as specifically stated in Wang (C. 5, L. 47-59).

Larsson teaches a method and system for providing telecommunications services to a plurality of mobile users in a telecommunications network, wherein, when

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a subscriber notifies the telephone exchange that he/she has transferred to an other area, he/she terminates the connection before the telephone exchange unit has answered the call, thereby avoiding cost to the telephone exchange unit (C. 8, L. 53-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer in view of Wang to include terminating the call prior to an answering of the call, as disclosed in Larsson, and initiating said dialog after said termination of the call, because it would advantageously allow subscribers to avoid unnecessary cost, as specifically indicated in Larsson (C. 8, L. 53).

Pines et al. teaches a method and system for providing communication assistance between wireless mobile devices, wherein, before initiating a dialog with a wireless apparatus, the system is configured to check the Device Capability field of Listing Table 52A in a system database which identifies the capabilities of Wireless Apparatus 6 device (Figs. 1 and 2), wherein said capabilities include SMS capabilities (C. 14, L. 25-28), thereby suggesting the two-way dialog format.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer, Wang and Pines to include determining, based upon the subscriber identifier, a set of capabilities of the mobile device; selecting, based upon the set of capabilities, a two-way dialog format, through which the mobile device is capable of communicating; and that said "initiating a dialog" step is based upon the selected two-way dialog format, as disclosed in Pines et al., because it would advantageously ensure that the subscriber receives the intended messages, as specifically stated in Pines et al.

Furthermore, in this case, each of the elements of the cited references combined by the Examiner performs the same function when combined as it does in the prior art. Thus, such a combination would have yielded predictable results. See *Sakraida*, 425 U.S. at 282, 189 USPQ at 453. Therefore, Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* (KSR, 82 USPQ2d at 1396) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See

the recent Board decision *Ex arte Smith, --USPQ2d--*, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

Claim 27. Sofer teaches a computer-readable medium having instructions embedded therein which, when implemented by a computer, causing said computer to perform a method for maintaining and distributing wireless applications to mobile devices, comprising:

receiving, from a network computer telephony integrated system, data about a call received from a mobile device (said call including a service dialed number (short code)) (C. 3, L. 35-37);

determining, from the call, a subscriber identifier (C. 7, L. 65 - C. 8, L. 1);

initiating a dialog between a server (gateway) and the mobile device (establishing an interactive voice response for additional input from said mobile device) (C. 6, L. 40-42; C. 7, L. 7-18); said dialog including a response to be selected based upon a service dialed number (short code), selected to address the call, and the determined subscriber identifier, said service dialed number (shod code) including information representing a unique code for routing the call (translating short code information into routing instructions) (C. 3, L. 47-49; C. 4, L. 23- 27); and information uniquely identifying the service (said short codes representing specific services) (C. 6, L. 12-28; C. 7, L. 35-40).

Sofer does not explicitly teach that said service dialed number (short code) includes at least a first segment and a second segment. Also, Sofer does not teach terminating the call prior to an answering of the call, and that said initiating step is conducted after said termination of the call.

said service dialed number (short code) includes at least a first segment and a second segment;

terminating the call prior to an answering of the call, and that said initiating step is conducted after said termination of the call; and

determining, based upon the subscriber identifier, a set of capabilities of the mobile device; selecting, based upon the set of capabilities, a two-way dialog format,

through which the mobile device is capable of communicating; and that said "initiating a dialog" step is based upon the selected two-way dialog format.

Wang et al. (Wang) teaches a system and method for dynamically routing a dialed signal, said signal including at least a first segment and a second segment (routing short code), said method including routing the signal in accordance with information obtained from said first and second segments (Figs. 3 and 8; C. 6, L. 65 - C. 7, L. 5; C. 12, L. 36-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer to include that said service dialed number (shod code) includes at least a first segment and a second segment, as disclosed in Wang, because it would advantageously allow to provide a mobile operator with sufficient intelligence to enable to route the call to a particular destination via appropriate nodes without having the participants of the call being aware of the specifics of the routing path, as specifically stated in Wang (C. 5, L. 47-59).

Larsson teaches a method for providing telecommunications service to a plurality of mobile users in a telecommunications network, wherein, when a subscriber notifies the telephone exchange that he/she has transferred to an other area, he/she terminates the connection before the telephone exchange unit has answered the call, thereby avoiding cost to the telephone exchange unit (C. 8, L. 53-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer in view of Wang to include terminating the call prior to an answering of the call, as disclosed in Larsson, and initiating said dialog after said termination of the call, because it would advantageously allow subscribers to avoid unnecessary cost, as specifically indicated in Larsson (C. 8, L. 53).

Pines et al. teaches a method and system for providing communication assistance between wireless mobile devices, wherein, before initiating a dialog with a wireless apparatus, the system is configured to check the Device Capability field of Listing Table 52A in a system database which identifies the capabilities of Wireless Apparatus 6 device (Figs. 1 and 2), wherein said capabilities include SMS capabilities (C. 14, L. 25-28), thereby suggesting the two-way dialog format.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer, Wang and Pines to include determining, based upon the subscriber identifier, a set of capabilities of the mobile device; selecting, based upon the set of capabilities, a two-way dialog format, through which the mobile device is capable of communicating; and that said "initiating a dialog" step is based upon the selected two-way dialog format, as disclosed in Pines et al., because it would advantageously ensure that the subscriber receives the intended messages, as specifically stated in Pines et al.

Furthermore, in this case, each of the elements of the cited references combined by the Examiner performs the same function when combined as it does in the prior art. Thus, such a combination would have yielded predictable results. *See Sakraida*, 425 U.S. at 282, 189 USPQ at 453. Therefore, Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* (KSR, 82 USPQ2d at 1396) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex arte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

Dependent Claims

Claims 6, 30 and 77.

Larsson teaches said method, system and computer-readable medium, wherein the employed communication channel is SMS (C. 9, L. 20-2.1). The motivation to combine references would be to communicate without incurring excessive costs.

Claims 7, 31, 78. Selecting, based upon a first subset of the information, a server to select the response (Sofer; C. 6, L. 29-48; C. 7, L. 35-40).

Claims 8, 79. Identifying, based upon a second subset of the information, data independent of the server and a recipient of the call (Sofer; C. 6, L. 12-28).

Claims 9, 80. Said method as in Claim 8, wherein said data is a product (type of service) (Sofer; C. 6, L. 12-28).

Claims 10, 81. Selecting the information via cell phone interface (Sofer; C. 6, L. 15- 21).

Claim 32. Identifying, based on a second subset of the information, data independent of the server and a recipient of the call (Sofer; C. 6, L. 12-28).

Claim 33. Said medium wherein said data is a product (type of service) (Sofer; C. 6, L. 12-28).

Claims 12, 17-21, 23, 26, 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sofer et al. in view of Wang et al., further in view of Mehta et al. (US 2002/0131404 A1), further in view of Larsson (US 6,304,757) and further in view of Pines et al.

Independent Claims

Claims 12 and 23. Sofer teaches a computer-readable medium having instructions embedded therein which, when executed by a computer, causing said computer to perform a method for maintaining and distributing wireless applications to mobile devices; and system, said system including a network computer telephony integrated system and a plurality of servers/gateways; said system is configured for:

receiving a call from a mobile device (said call including a service dialed number (short code)) (C. 3, L. 35-37);

determining, from the call, a subscriber identifier (C. 7, L. 65 - C. 8, L. 1); and sending information about the call to a server to initiate a dialog between a server (gateway) and the mobile device (establishing an interactive voice response for additional input from said mobile device) (C. 6, L. 40-42; C. 7, L. 7-18); said dialog including a response to be selected based upon a service dialed number (short code) selected to address the call, said service dialed number (short code) including information representing a unique code for routing the call (translating short code information into routing instructions) (C. 3, L. 47-49; C. 4, L. 23-27); and information uniquely identifying the service (said short codes representing specific services) (C. 6, L. 12-28; C. 7, L. 35-40).

Sofer does not explicitly teach that

said service dialed number (short code) includes at least a first segment and a second segment;

said server (receiving information about the call) is a push server;
terminating the call prior to an answering of the call; and
determining, based upon the subscriber identifier, a set of capabilities of the mobile device; selecting, based upon the set of capabilities, a two-way dialog format, through which the mobile device is capable of communicating; and that said "initiating a dialog" step is based upon the selected two-way dialog format.

Wang et al. (Wang) teaches a system and method for dynamically routing a dialed signal, said signal including at least a first segment and a second segment (routing short code), said method including routing the signal in accordance with information obtained from said first and second segments (Figs. 3 and 8; C. 6, L. 65 - C. 7, L. 5; C. 12, L. 36-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer to include that said service dialed number (short code) includes at least a first segment and a second segment, as disclosed in Wang, because it would advantageously allow to provide a mobile operator with sufficient intelligence to enable to route the call to a particular destination via appropriate nodes without having the participants of the call being aware of the specifics of the routing path, as specifically stated in Wang (C. 5, L. 47-59).

Mehta et al. (Mehta) teaches a computer-implemented method and system for maintaining and distributing wireless applications to mobile devices, said system including: a computer network, a provisioning server, and a deployment server having "push" behavior capability [0110], [0132]; said method comprising: receiving a request (call) for an application from a customer's mobile device; and responding to the call based upon information identified for response [0136]; [0138].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer in view of Wang to include that said server (receiving information about the call) is a push server, as disclosed in Mehta, because it would advantageously allow to relieve the subscriber from having to actively retrieve

desired application/information from the Web, thereby providing the convenience to the subscriber.

Larsson teaches a method for providing telecommunications services to a plurality of mobile users in a telecommunications network, wherein, when a subscriber notifies the telephone exchange that he/she has transferred to an other area, he/she terminates the connection before the telephone exchange unit has answered the call, thereby avoiding cost to the telephone exchange unit (C. 8, L. 53-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer in view of Wang to include terminating the call prior to an answering of the call, as disclosed in Larsson, and initiating said dialog after said termination of the call, because it would advantageously allow subscribers to avoid unnecessary cost, as specifically indicated in Larsson (C. 8, L. 53).

Pines et al. teaches a method and system for providing communication assistance between wireless mobile devices, wherein, before initiating a dialog with a wireless apparatus, the system is configured to check the Device Capability field of Listing Table 52A in a system database which identifies the capabilities of Wireless Apparatus 6 device (Figs. 1 and 2), wherein said capabilities include SMS capabilities (C. 14, L. 25-28), thereby suggesting the two-way dialog format.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer, Wang and Pines to include determining, based upon the subscriber identifier, a set of capabilities of the mobile device; selecting, based upon the set of capabilities, a two-way dialog format, through which the mobile device is capable of communicating; and that said "initiating a dialog" step is based upon the selected two-way dialog format, as disclosed in Pines et al., because it would advantageously ensure that the subscriber receives the intended messages, as specifically stated in Pines et al.

Furthermore, in this case, each of the elements of the cited references combined by the Examiner performs the same function when combined as it does in the prior art. Thus, such a combination would have yielded predictable results. See *Sakraida*, 425 U.S. at 282, 189 USPQ at 453. Therefore, Supreme Court Decision in *KSR International*

Co. v. *Teleflex Inc.* (KSR, 82 USPQ2d at 1396) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex arte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

Dependent Claims

Claims 17, 30. Larsson teaches said method, system and computer-readable medium, wherein the employed communication channel is SMS (C. 9, L. 20-2.1). The motivation to combine references would be to communicate without incurring excessive costs.

Claims 18, 31. Said system wherein said server selects, based upon a first subset of the information, a server to select the response (Sofer; C. 6, L. 29-48; C. 7, L. 35-40).

Claims 19, 32. Said system wherein a second subset of the information identifies data independent of the server and a recipient of the call (Sofer; C. 6, L. 12-28).

Claims 20, 33. Said system as in Claim 19, wherein said data is a product (type of service) (Sofer; C. 6, L. 12-28).

Claim 21. Said system wherein the information is selected via cell phone interface (Sofer; C. 6, L. 15-21).

Claim 26. Selecting the information via cell phone interface (Sofer; C. 6, L. 15-21).

Claims 11 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sofer et al. in view of Wang et al. further in view of Larsson further in view of Pines et al. and further in view of Thornton (US 6,751,454 B2).

Dependent Claims

Claims 11 and 82. Sofer, Wang Larsson, and Pines and teaches all the limitations of Claims 11 and 82, except specifically teaching that said response include instructing the mobile device to connect to the server.

Thornton teaches a method and system for sampling audio recording on a cell phone, wherein, after establishing a first data connection to the data server computer, if a consumer wants to select a particular audio of interest while navigating through a menu system, the data server computer instructs the wireless device to terminate the first data connection and establish a voice connection with an audio server computer (C. 2, L. 40-42; C. 7, L. 15-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer, Wang Larsson, and Pines to include that said response include instructing the mobile device to connect to the server, as disclosed in Thornton, because it would advantageously allow subscribers to review or "try" various applications prior to purchasing them, thereby decrease the amount of "returns".

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sofer et al. in view of Wang et al. further in view of Mehta et al. further in view of Larsson, further in view of Pines et al. and further in view of Thornton.

Dependent Claims

Claim 22. Sofer, Wang, Mehta, Larsson, and Pines teaches all the limitations of Claim 22, except specifically teaching that said response include instructing the mobile device to connect to the server.

Thornton teaches a method and system for sampling audio recording on a cell phone, wherein, after establishing a first data connection to the data server computer, if a consumer wants to select a particular audio of interest while navigating through a menu system, the data server computer instructs the wireless device to terminate the first data connection and establish a voice connection with an audio server computer (C. 2, L. 40-42; C. 7, L. 15-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sofer, Wang, Mehta, Larsson, and Pines to include that said response include instructing the mobile device to connect to the server, as disclosed in Thornton, because it would advantageously allow subscribers to review or

"try" various applications prior to purchasing them, thereby decrease the amount of "returns".

Response to Arguments

Applicant's arguments filed 04/22/2008 have been fully considered but they are not persuasive.

In response to the applicant argument that the prior art of record fails to disclose "determining, based upon the subscriber identifier, a set of capabilities of the mobile device; selecting, based upon the set of capabilities, a two-way dialog format, through which the mobile device is capable of communicating", it is noted that Pines was applied for this feature. Specifically, Pines teaches an arrangement for communication assistance between wireless mobile devices, wherein, before initiating a dialog with a wireless apparatus, the system is configured to check the Device Capability field of Listing Table 52A in a system database which identifies the capabilities of Wireless Apparatus 6 device (Figs. 1 and 2), wherein said capabilities include SMS capabilities (C. 14, L. 25-28), thereby suggesting the two-way dialog format.

As per electronic file format capability, Mehta explicitly teaches this feature: "... In step 2701, the routine accesses the retrieved subscriber device profile to *determine compatible file formats for the identified subscriber device...*" [0148].

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/
Primary Examiner, Art Unit 3628
06/24/2008